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MAY -6 2004

Paper No. 12

In re Application of
Giovanni Bocola
Application No. 09/890,035
Filed: July 26, 2001
Attorney Docket No. 1011-326

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: DECISION ON PETITION
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This is a decision on the petition filed on April 1, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a proper and timely following the filing of a Notice of Appeal on July 11, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because a timely and proper reply in the form of a Request for Continued Prosecution (RCE) under 37 CFR 1.114 was in fact filed on August 11, 2003. Petitioner supports this allegation by furnishing a copy of the RCE and a copy of a filing receipt for the RCE showing that the RCE was in fact received in the Office on August 11, 2003, a date within two months of the filing of the Notice of Appeal. See 37 CFR 1.191(a). Based upon this evidence, it is clear that this application is not abandoned. In addition, Office financial records show that the RCE fee was in fact received on August 14, 2003 and has been applied.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the Head Supervisory Applications Examiner for entry of the RCE filed on August 14, 2003. Thereafter, the application will be forwarded to the examiner for action.

PETITION GRANTED.

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